

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the `Contact Lens Consumer Protection Act'

SEC. 2. CONTACT LENS CONSUMER PROTECTION.

The Fairness to Contact Lens Consumers Act (15 U.S.C. 7601 et seq.) is amended by inserting after section 7, the following new section

`SEC. 7A. POLICY REGARDING THE AVAILABILITY OF CONTACT LENSES.

`(a) In General- A manufacturer shall make any contact lens the manufacturer produces, markets, distributes, or sells available in a commercially reasonable and nondiscriminatory manner to--

`(1) prescribers;

`(2) entities associated with prescribers; and

`(3) alternative channels of distribution.

`(b) Exclusion-

`(1) IN GENERAL- For purposes of this section, the term `contact lens' does not include lenses that are described in paragraph (2).

`(2) LENSES DESCRIBED- The lenses described in this paragraph include--

`(A) rigid gas permeable lenses;

`(B) bitoric gas permeable lenses;

`(C) bifocal gas permeable lenses;

`(D) keratoconus lenses;

`(E) custom soft toric lenses; and

`(F) any other custom designed lenses that are manufactured for an individual patient and are not mass marketed or mass produced.

`(c) Definitions- In this section:

`(1) ALTERNATIVE CHANNELS OF DISTRIBUTION- The term `alternative channels of distribution' means any mail order company, Internet retailer, pharmacy, buying club, department store, or mass merchandise outlet, without regard to whether the entity is associated with a prescriber, unless the entity is a competitor as defined in paragraph (2).

`(2) COMPETITOR- The term `competitor' means an entity that manufactures contact lenses and sells the lenses in direct competition with another manufacturer.

`(3) MANUFACTURER- The term `manufacturer' includes the manufacturer and the parent company of the manufacturer, and any subsidiaries, affiliates, successors, and assigns of the manufacturer.

`(d) Safe Harbor for Manufacturers- Nothing in this section shall be deemed to impose on a manufacturer an obligation to--

`(1) sell to a competitor;

`(2) sell contact lenses to different contact lens distributors or customers at the same price, consistent with applicable Federal law;

`(3) open or maintain any account for a seller who is not in substantial compliance with this Act;

`(4) decide whether to sell to a low volume account directly or through a distributor; or

`(5) make available to sellers in all geographic areas lenses that are being test marketed on a limited basis in one geographic area.

`(e) Rulemaking- The Federal Trade Commission shall prescribe rules to carry out this section in the same manner as set forth under section 8 of this Act and any rule prescribed under this section shall take effect not later than 60 days after the date of the enactment of this Act.

`(f) Violations- Any violation of this section or the rules required under subsection (e) shall be treated in the same manner as provided for under section 9 of this Act.'.

